

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Welfare Institutions Code Sections 6250 and 6600 through 6608; as added and amended by Chapter 762, Statutes of 1995; Chapter 763, Statutes of 1995; Chapter 4, Statutes of 1996,

And filed on May 30, 1996;

By County of Los Angeles, Claimant.

NO. CSM-4509

Sexually Violent Predators

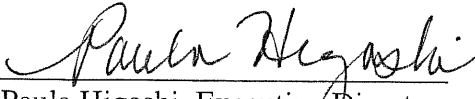
ADOPTION OF PARAMETERS AND GUIDELINES PURSUANT TO GOVERNMENT CODE SECTION 17557 AND TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTIONS 1183.12.

(Adopted on September 24, 1998)

ADOPTED PARAMETERS' & GUIDELINES

The attached Parameters & Guidelines of the Commission on State Mandates is hereby adopted in the above-entitled matter.

This Decision shall become effective on September 25, 1998.


Paula Higashi, Executive Director

Parameters and Guidelines

Welfare and Institutions Code Sections 6250 and 6600 through 6608
Chapter 762, Statutes of 1995
Chapter 763, Statutes of 1995
Chapter 4, Statutes of 1996

Sexually Violent Predators

I. Summary and Source of the Mandate

Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996, established new civil commitment procedures for the continued detention and treatment of sexually violent offenders following their completion of a prison term for certain sex-related offenses. Before detention and treatment are imposed, the county attorney is required to file a petition for civil commitment. A trial is then conducted to determine if the inmate is a sexually violent predator beyond a reasonable doubt. If the inmate accused of being a sexually violent predator is indigent, the test claim legislation requires counties to provide the indigent with the assistance of counsel and experts necessary to prepare the defense.

On June 25, 1998, the Commission adopted a Statement of Decision which approved reimbursement for the following services:

- ⌘ Designation by the County Board of Supervisors of the appropriate District Attorney or County Counsel who will be responsible for the sexually violent predator civil commitment proceedings. (Welf. & Inst. Code, § 6601, subd. (i).)
- ⌘ Initial review of reports and records by the county's designated counsel to determine if the county concurs with the state's recommendation. (Welf. & Inst. Code, § 6601, subd. (i).)
- ⌘ Preparation and filing of the petition for commitment by the county's designated counsel. (Welf. & Inst. Code, § 6601, subd. (j).)
- ⌘ Preparation and attendance by the county's designated counsel and indigent defense counsel at the probable cause hearing. (Welf. & Inst. Code, § 6602.)
- ⌘ Preparation and attendance by the county's designated counsel and indigent defense counsel at trial. (Welf. & Inst. Code, §§ 6603 and 6604.)
- ⌘ Preparation and attendance by the county's designated counsel and indigent defense counsel at subsequent hearings regarding the condition of the sexually violent predator. (Welf. & Inst. Code, §§ 6605, subds. (b) through (d), and 6608, subds. (a) through (d).)

- ✍ Retention of necessary experts, investigators, and professionals for preparation for trial and subsequent hearings regarding the condition of the sexually violent predator. (Welf. & Inst. Code, §§ 6603 and 6605, subd. (d).)
- ✍ Transportation and housing for each potential sexually violent predator at a secured facility while the individual awaits trial on the issue of whether he or she is a sexually violent predator. (Welf. & Inst. Code, § 6602.)

Chapters 762 and 763, Statutes of 1995, were enacted on October 11, 1995, and became operative on January 1, 1996. Chapter 4, Statutes of 1996, relating to the transportation and housing of potential sexually violent predators at a secured facility, was enacted as an urgency measure and became operative on January 25, 1996.

II. Eligible Claimants

Counties or cities and counties.

III. Period of Reimbursement

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for this mandate was filed by the County of Los Angeles on May 30, 1996. Therefore, costs incurred for Chapter 762, Statutes of 1995 and Chapter 763, Statutes of 1995, are eligible for reimbursement on or after January 1, 1996. Costs incurred for Chapter 4, Statutes of 1996, regarding transport and secured custody of defendants, are eligible for reimbursement on or after January 25, 1996.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 1756 1, subdivision (d)(l) of the Government Code, all claims for reimbursement of costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If total costs for a given year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. Reimbursable Activities

For each eligible claimant, all direct and indirect costs of labor, supplies and services, for the following activities only are eligible for reimbursement:

- A. Designation by the County Board of Supervisors of the appropriate District Attorney or County Counsel who will be responsible for the sexually violent predator civil commitment proceedings.
 - 1. Development of internal policies and procedures (one-time activity).
 - 2. One-time training for each employee who normally works on the sexually violent predator program on the county's internal policies and procedures.
- B. The following reimbursable activities must be specifically identified to a defendant:

1. Initial review of reports and records by the county's designated counsel to determine if the county concurs with the state's recommendation. Such activity includes the following:
 - a. Secretarial and paralegal services to assist the county's designated counsel; and
 - b. Copying and making long distance telephone calls.
 - c. Investigator services that are necessary to determine the sufficiency of the factual evidence supporting a petition.
2. Preparation and filing of the petition for **commitment** by the county's designated counsel. Such activities include secretarial and paralegal services to assist the county's designated counsel in the preparation and filing of the petition for **commitment**.
3. Preparation and attendance by the county's designated counsel and indigent defense counsel at the probable cause hearing. Preparation for the probable cause hearing includes the following:
 - a. Secretarial, paralegal and investigator services;
 - b. Copying and making long distance telephone calls; and
 - c. Travel.
4. Preparation and attendance by the county's designated counsel and indigent defense counsel at pre-trial and trial hearings. Preparation for the pre-trial and trial hearings include the following:
 - a. Secretarial, paralegal and investigator services;
 - b. Copying and making long distance telephone calls; and
 - c. Travel.
5. Preparation and attendance by the county's designated counsel and indigent defense counsel at subsequent hearings regarding the condition of the sexually violent predator. Preparation for the subsequent hearings includes the following:
 - a. Secretarial, paralegal and investigator services;
 - b. Copying and making long distance telephone calls; and
 - c. Travel.
6. Retention of court-approved experts, investigators, and professionals for the indigent defendant in preparation for trial and subsequent hearings regarding the condition of the sexually violent predator. Such activity includes the following:
 - a. Copying and long distance telephone calls made by the court-approved expert, investigator and/or professional; and
 - b. Travel.
7. Transportation and housing costs for each potential sexually violent predator at a secured facility while the individual awaits trial on the issue of whether he or she is a sexually violent predator. Counties shall be entitled to reimbursement for such

transportation and housing costs, regardless of whether the secured facility is a state facility or county facility, except in those circumstances when the State has directly borne the costs of housing and transportation, in which case no reimbursement of such costs shall be permitted.

V. Claim Preparation and Submission

Claims for reimbursement must be timely filed and identify each cost element for which reimbursement is **claimed** under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV of this document.

SUPPORTING DOCUMENTATION

Claimed costs shall be supported by the following cost element information:

A. Direct Costs

Direct Costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

1. Salaries and Benefits

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, productive hourly rate and related fringe benefits.

Reimbursement for personal services include compensation paid for salaries, wages and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contribution of social security, pension plans, insurance and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities which the employee performs.

2. Materials and Supplies

Only expenditures that can be identified as a direct cost of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

3. Contract Services

Provide the name(s) of the contractor(s) who performed the services, including any fixed contracts for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services. Attach consultant invoices to the claim.

4. Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

5. Training

The cost of training an employee to perform the mandated activities is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, transportation, lodging, per diem, and registration fees.

6. Fixed Assets

List the costs of the fixed assets that have been acquired specifically for the purpose of this mandate. If the fixed asset is utilized in some way not directly related to the mandated program, only the pro-rata portion of the asset which is used for the purposes of the mandated program is reimbursable.

B. Indirect Costs

Indirect costs are defined as costs which are incurred for a **common** or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10 % of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

VI. Supporting Data

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).

VII. Data for Development of a Statewide Cost Estimate

The State Controller's Office is directed to include in the claiming instructions a request that claimants send an additional copy of the test claim specific form for the initial years' reimbursement claim by mail or facsimile to the Commission on State Mandates, 1300 I Street, Suite 950, Sacramento, California 958 14, Facsimile number: (916) 445-0278. Although providing this information to the Commission on State Mandates is not a condition of reimbursement, claimants are encouraged to provide this information to enable the Commission to develop a statewide cost estimate which will be the basis for the Legislature's appropriation for this program.

VIII. Offsetting Savings and Other Reimbursement

Any offsetting savings the claimant experiences as a direct result of the subject mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

IX. State Controller's Office Required Certification

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the State contained herein.